

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA

2 FOR THE COUNTY OF LOS ANGELES

3 DEPARTMENT NO. 57

HON. PAUL G. BRECKENRIDGE, JR., JUDGE

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5 CHURCH OF SCIENTOLOGY OF CALIFORNIA,)

6 Plaintiff,)

7 vs.)

8 GERALD ARMSTRONG,)

9 Defendant.)

NO. C 420153

10 _____)
11 MARY SUE HUBBARD,)

12 Intervenor.)
13 _____)

14 REPORTER'S TRANSCRIPT OF PROCEEDINGS

15 August 2, 1984

16 APPEARANCES:

17 For the Plaintiff
18 and Intervenor:

LITT & STORMER
By: MICHAEL S. MAGNUSON
3550 Wilshire Blvd., Suite 1200
Los Angeles, California 90010

20 For Plaintiff Only:

PETERSON & BRYNAN
By: JOHN G. PETERSON
8530 Wilshire Blvd., Suite 407
Beverly Hills, California 90211

23 For the Defendant:

CONTOS & BUNCH **700257**
By: JULIA DRAGOJEVIC
5855 Topanga Canyon Blvd.
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Woodland Hills, California 91367

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27 NANCY L. HARRIS, C.S.R.
28 Official Reporter
Certificate No. 644

1 Again, I can't say the action was brought in bad
2 faith or for any kind of improper purpose as such. It is
3 a mixed bag. Some of the things they did were wrong. Some
4 of the things they did they had a right to do, and I cannot
5 under those circumstances find that the defendant is entitled
6 to attorneys' fees on that theory.

7 So, the nuts and bolts of this is that I have
8 to deny this motion. I do it with a certain amount of
9 reluctance because I feel that the defendant's counsel have
10 served long and hard and put a lot of time in here and effort
11 to be of assistance to their client. They have served their
12 client well. There is no immediate reward for them in this
13 case in the sense of even compensating them for their time.
14 They have labored against tremendous odds, against tremendous
15 financial resources. The financial resources on the other
16 side are overwhelming, but I don't feel I can in any legal
17 basis grant the motion.

18 There is one last thing I want to mention, and
19 that has to do with the declaration of John G. Peterson on
20 this opposition to motion for attorneys' fees. **700258**

21 As Mr. Peterson has indicated, he has become
22 emotionally involved in this case, and it is rather abundantly
23 clear. So some of his comments which have been reported in
24 the newspapers -- he can make whatever comments he wants to
25 about the case or the court or anybody else. It doesn't bother
26 me, but when he puts in a declaration what really is just
27 an argument as to why the motion should not be granted, it
28 seems to me that it is totally unprofessional.

1 I have to contrast it with the response from Mary
2 Sue Hubbard which I thought was a very professional response,
3 obviously by people who are disappointed in the outcome of
4 the litigation, but at the same time they proceed in a lawyer-
5 like fashion.

6 This attaching of these exhibits relating to
7 Mr. Flynn, to me, is the worst kind of tactic. It is an effort
8 to smear Mr. Flynn. For what purpose I don't really know,
9 gratuitous insults to inject into the file of this case some
10 dirt, I suppose, for the obvious purpose of prejudicing
11 Mr. Flynn or any court or any person who might review the
12 record.

13 Now, obviously if there is any substance to these
14 allegations, they should have been presented to law enforcement
15 authorities.

16 MR. PETERSON: They have been.

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17 THE COURT: If they conduct investigation and find any
18 merit, I am sure they will do whatever they feel is appropriate.

19 At the same time, I have been around criminal
20 defendants, both as a defense lawyer and a judge, for many,
21 many years, and I tend to be very skeptical about what any
22 person in prison is likely to say, either about his former
23 lawyer or associate of a former lawyer or upon anything which
24 might provide him with some secondary gain. I can't help
25 but approach this with a great of skepticism and cynicism.
26 I read some of the exhibits dealing with Black Propaganda.
27 I got a letter from some woman about dead agenting. Said
28 I was probably the subject of now being a dead agent myself,

1 and I really couldn't care less. But I think it is unfortunate
2 that the file has to be cluttered up with, I am going to say
3 it right here, garbage of this type. I don't think this should
4 be a part of the public record.

5 I am going to order that the documents which
6 purport to be exhibit B through F be separated from this
7 declaration, be enclosed in a sealed envelope, and be ordered
8 sealed and not to be opened except upon further order of any
9 court that wants to review this matter. Nothing to do with
10 this lawsuit. Nothing to do with these motions, and I think
11 it is offensive and I am quite surprised.

12 End of that.

13 MR. MAGNUSON: Your Honor, I have one other matter.
14 I am sorry. I just want to clarify one point.

15 We do intend to file an opposition to the statement
16 of decision, and I want to clarify our timing on this because
17 the date in which the statement of decision or the request
18 of defendant that the memorandum of decision be deemed the
19 statement of decision is July 20, and I want to make sure
20 that we have 15 days from the date that a statement of
21 decision --

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22 THE COURT: Well, we haven't done anything and the court
23 made an order that you would have the usual time.

24 MR. MAGNUSON: Because I want to be clear that the time
25 runs from that date with five days for mailing.

26 THE COURT: That is right.

27 MR. MAGNUSON: And we would then have 20 days from July
28 20 within which to file our opposition.

1 THE COURT: You will have not later than the morning,
2 9 o'clock, on the 10th of August because I am going to be
3 gone after that, and so have it in by then and I will rule
4 on it. Otherwise, it will just sit here for four weeks.

5 MR. MAGNUSON: That is fine, thank you.

6 MS. DRAGOJEVIC: Thank you, Your Honor.

7 (At 9:45 a.m. proceedings were adjourned.)
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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 57

HON. PAUL G. BRECKENRIDGE, JR., JUDGE

CHURCH OF SCIENTOLOGY OF CALIFORNIA,

Plaintiff,

vs.

GERALD ARMSTRONG,

Defendant.

No. C 420153

REPORTER'S CERTIFICATE

MARY SUE HUBBARD,

Intervenor

STATE OF CALIFORNIA)

) ss.

COUNTY OF LOS ANGELES)

I, NANCY L. HARRIS, CSR, Official Reporter of the Superior Court of the State of California, for the County of Los Angeles, do hereby certify that the foregoing pages, 1 through 43 comprise a true and correct transcript of the proceedings held in the above-entitled matter on Thursday, August 2, 1984.

Dated this 9th day of August 1984.

NANCY L. HARRIS

CSR No. 644

Official Reporter

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